

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

COURTNEY MOTLEY,

v.

Petitioner,

Case No. 3:20-cv-00053-MMD-WGC

ORDER

STATE OF NEVADA, *et al.*,

Respondents.

This is a habeas corpus proceeding under 28 U.S.C. § 2254 brought by Petitioner Courtney Motley. The Court previously dismissed ground one of the petition because it was without merit on its face. (ECF No. 3 at 4.) The Court also found that the remaining ground—ground two—was successive under 28 U.S.C. § 2244(b). (*Id.* at 4–5.) Petitioner had previously filed a habeas corpus petition in this Court that challenged the custody pursuant to the same judgment of conviction, *Motley v. Dzurenda*, Case No. 2:19-cv-01963-GMN-NJK (filed Nov. 7, 2019) ("Motley I"). The Court denied *Motley I* on the merits. (*Motley I*, ECF No. 3.) Motley thus needed to obtain authorization from the United States Court of Appeals for the Ninth Circuit to proceed with a second or successive habeas corpus petition. 28 U.S.C. § 2244(b)(3). It appeared that Motley had not obtained that authorization, and the Court directed him to show cause why the Court should not dismiss the action. (ECF No. 3 at 5–6.)

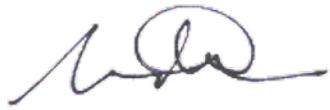
24 Motley now has filed an application for leave to file second or successive petition.
25 (ECF No. 6.) But he filed it in the wrong court; he needed to file it with the Ninth Circuit. 28
26 U.S.C. § 2244(b)(3)(A). However, "[i]f an application for authorization to file a second or
27 successive section 2254 petition or section 2255 motion is mistakenly submitted to the
28 district court, the district court shall refer it to the court of appeals." Ninth Circuit Rule 22-

1 3(a).Therefore, the Court will do that. The Court also will close this action unless and until
2 the Ninth Circuit authorizes the filing of a second or successive petition.

3 It is therefore ordered that the Clerk of the Court refer this action to the United
4 States Court of Appeals for the Ninth Circuit, for a determination on Petitioner's application
5 for leave to file second or successive petition (ECF No. 6).

6 It is further ordered that the Clerk of the Court administratively close this action.

7 DATED THIS 4th day of March 2020.

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11 MIRANDA M. DU
12 CHIEF UNITED STATES DISTRICT JUDGE
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